

EXHIBIT 4

for

For Federal Criminal/Civil case -- BRIEF /
MEMORANDUM OF LAW AND ATTACHED
EXHIBITS IN SUPPORT OF THE PETITIONER'S
MOTION TO VACATE, SET ASIDE, OR CORRECT A
SENTENCE BY A PERSON IN FEDERAL
CUSTODY. MOTION UNDER 28 U.S.C. § 2255
by Brian David Hill

Ally of Q, Former news reporter of USWGO Alternative News
JUSTICEFORUSWGO.WORDPRESS.COM



11/11/2019 8:29:44 PM From: Brian David Hill Fax ID: 276-790-3505
 Attn.: Hon. Ashby R. Pritchett or any authorized Deputy Clerk To: Martinsville Circuit Court

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TESTE: *Ep. Martin*
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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF MARTINSVILLE

Commonwealth of Virginia,

Plaintiff,

v.

Brian David Hill,

Defendant,

Criminal Action No. CR19000009-00

Motion to Withdraw Appeal

MOTION TO WITHDRAW APPEAL

COMES NOW criminal Defendant Brian David Hill ("Brian", "Hill") respectfully requests to withdraw the Appeal of the December 21, 2018, General District Court finding of guilty. However Brian does NOT waive his right to collaterally attack/challenge his conviction in General District Court and also does NOT waive his right to file a Writ of Actual Innocence.

The reason for withdrawing his appeal is because he is facing a fixed jury trial where the cards are stacked against him. It will not be a fair trial and his legal innocence will not matter as various private lawyers had explained to Brian when Brian's family asked for free consultation with multiple private lawyers, to see if any had opinions differing from the court appointed lawyers.

One lawyer told Brian that his federal conviction will be brought up if Brian testifies on the stand, when testifying is necessary to show a defense that Brian has Autism Spectrum Disorder which would explain why Brian smiles in photos, because his Autism affects his behaviors and can cause incorrect or abnormal behaviors such as smiling or giving the inappropriate facial expressions or gestures



11/11/2019 8:21:26 PM

From: Brian David Hill

Fax ID: 276-790-3505

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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF MARTINSVILLE

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| <p>Commonwealth of Virginia,</p> <p>Plaintiff,</p> <p>v.</p> <p>Brian David Hill,</p> <p>Defendant,</p> | <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> | <p>Criminal Action No. CR19000009-00</p> <p>Motion to Withdraw Appeal</p> |
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during a situation of duress or in any other situation. Autism should not be legally treated as the same as normal behaviors because Autism behaviors differ from the normal set of expected human behaviors in a society. Such as after being threatened Brian didn't walk for miles to get to the Police Department but instead did exactly what the man in the hoodie had directed Brian to do or his mother will be killed, he presumed that if he didn't do what the man in the hoodie had said. Another lawyer said that his affidavits filed in federal court about his state case cannot be used. Another one said that Brian's allegation of fraud upon the court against the Commonwealth Attorney cannot be sustained because the evidence that may prove fraud by the Police Department cannot be used because of dual sovereignty where federal evidence concerning the same state charge of indecent exposure and is relevant to it cannot be brought up at the jury trial because of a claim of dual sovereignty, then hinting that Brian may face contempt of court for bringing the truthful allegations because of a technicality of dual sovereignty barring Brian from bringing up a map in the federal case showing where Brian allegedly took the pictures on September 21, 2018, which disproves Martinsville Police Department's fraudulent claim that Brian took photos all around the town, or all around the city when the evidence presented by the U.S. Attorney and witness Sergeant Robert Jones differs from his earlier claims to the psychologist which means fraudulent claims was told to both the psychologist of the mental evaluation at the General District Court level. Different lawyers gave slightly different opinions but all of them recommended that Brian withdraw his appeal because he would not win the jury trial even if he is legally innocent because the jurors would be biased and picked from the bible belt area and would automatically make their own personal determinations of Brian's guilt rather than the law's determination in the Appellate courts of record. They thought if Brian had faced a bench trial that he'd have a better chance at being found legally innocent of his



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charge. Since there is no way possible for Brian to get a bench trial, the lawyers thinks Brian has a poor chance, which doesn't make any sense.

Brian was told he can't have this as evidence, he cannot have that as evidence. Brian doesn't seem to be getting anywhere and each lawyer just gives the same bad news, that because Brian was wrongfully convicted of possession of child pornography in a corrupt Federal Court in the Middle District of North Carolina that ignored evidence and wouldn't show Brian all of his discovery material before compelling him to falsely plead guilty, that his Writ of Habeas Corpus on the ground of actual innocence does not matter, and that his fraud upon the court allegations in his federal case that were unopposed also does not matter for his state case. All the jurors would hear is about Brian's "sex charge" when Brian testifies on the stand and he was told by one private lawyer that he cannot bring up to the jury that he is fighting his federal criminal conviction on the ground of actual innocence and fraud upon the court and both of them are not subject to statute of limitations, and that it can be used to discredit him as a witness because all felons are liars as one lawyer told Brian. It takes time for Brian to overturn his wrongful federal conviction but the state jury trial will not delay indefinitely for Brian to overturn his wrongful conviction in Federal Court so that then he can testify at the jury trial without facing that prejudice. Brian will not get a fair trial in state court until his federal conviction is overturned, or that President Donald John Trump grants Brian a pardon of innocence for his federal conviction. His federal conviction cannot establish any facts or relevance as to why Brian was naked (but not obscene) on September 21, 2018. However when the jurors hear the words "possession of child pornography", any Christian will instantly turn on Brian and want him dead or to suffer, and want his house burned down. Because of the stigmatization of his "federal sex charge" of "possession", his actual innocence

will not matter, even if Brian is later found actually innocent of his wrongful federal conviction, if they hear those words, their ears turn off, their brains turn off, and their eyes turn off and they will refuse to hear or see any evidence except that Brian will be guilty because they will all believe that he is guilty when they hear the words of his federal conviction if Brian were to testify on the stand. He doesn't stand a chance, even if he is legally innocent. His pro se motions do not work because they force all motions through his attorney who isn't fighting for him. Brian submitted interrogatories to the Commonwealth's Attorney to ask for answers but his own lawyer will not submit interrogatories asking the same questions that were asked in Federal Court by Attorney Renorda Pryor, which would allow answers under oath before the trial and would give Brian a good chance at trying for a motion to dismiss based on the fact that Brian wasn't being obscene and obscenity is required in order for Brian to be found guilty of V.A. Code § 18.2-387. "Indecent exposure." Brian is legally innocent but the Jury will not recognize it if they are mainly Christians from the Bible belt, which highly likely will be Christians from the Bible belt. It doesn't matter what motions his friend Eric Clark (a legal expert from Kansas) tells Brian to file because any pro se motions he files or any interrogatories that he faxes to the Commonwealth Attorney will also be ignored because they were done pro se. He has been deprived of effective counsel every step of the way in his case, he doesn't stand a chance at jury trial. His former lawyer Scott Albrecht had never asked for the police body-camera footage while it was retained by Martinsville Police Department last year (*Brian also filed a motion for discovery for that body-camera footage but that was also ignored because it was filed pro se*), and Matthew Clark tells Brian that his letters to the Police Department asking for the body camera footage to be turned over to his lawyer doesn't matter, even though the body-camera footage would also help to show evidence of duress to the jury and show his autistic behaviors which



would be evident. His court appointed lawyers and private lawyers told him and his family that none of that matters, his legal innocence doesn't matter, none of the evidence matters. It is all one sided, a one sided jury trial that Brian would be facing. The prosecutor can use his autistic behaviors against him to make him look guilty but he isn't allowed to have a medical expert to testify to Brian's autism in his defense because the only defenses that will be accepted is if Brian were criminally insane (ruled mentally insane) and is declared cocoo, and that he would not be allowed to bring up anything from his Autism in his defense. They all practically said that if it was a bench trial, he would have a better chance at being found legally innocent for not being obscene, but Brian has no chance at a jury because it will all be fixed from what all lawyers have told Brian. Brian could debate with them all day long about how they are wrong about this and how they are about that, but Brian can't chance the minds of lawyers that are fixed to a certain belief or a certain repetitious ways of doing things a certain way all of the time, and that nothing else matters from this narrow way of doing things. Brian could file a motion to proceed pro se and try to set a new precedent on the way the rules work and that lawyers could have done this for Brian and could have done that for Brian, but then his Autism will work against him and make it difficult for Brian to present a case on his own during the jury trial as Brian is not a lawyer and has no Bar license, he doesn't have memorized the trial rules and rules of the court which puts him at risk of not knowing what he is doing, and if he is at risk of having an autistic meltdown, that would be used against him and put him in a worse situation. It is all fixed and Brian has no chance under a fixed jury trial. Since Brian is legally innocent, he can always file a Writ of Actual Innocence at a later time or ask a higher court to overturn his state conviction in General District Court on the basis of legal innocence since there is no time limit on actual innocence claims according to the U.S. Supreme Court on rulings for Writ of



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Habeas Corpus petitions that are time barred but not time barred for actual innocence.

For the foregoing explanations above, Brian does not stand a chance, and because of his Autism his ability to present the case on his own (pro se) without any legal trial experience is a very good chance of losing and that his legal innocence would not matter to Christian Bible belt jurors. It would not matter to Christian Bible belt jurors even though Adam and Eve were naked but not sexual, and Noah was naked in the tent and his sons tried to cover him up and Noah got angry but was not sexual, and another bible story where Peter was fishing naked but wasn't sexual. However regular Christians would portray Brian's non-sexual nudity and confusing autistic behavior as sexual from their own religious perspectives. They wouldn't know of Brian's carbon monoxide exposure, they wouldn't know of Brian having a documented medical history of Mild Autism and would only know that at sentencing like that would matter, and they wouldn't know of Brian proving his innocence of possession of child pornography and be forced to tell the jurors under oath what his federal conviction was for but then would not be allowed to explain to the jurors that he had filed a Writ of Habeas Corpus petition in November 2017 for his actual innocence and was also attacking his conviction for fraud upon the court committed by the federal prosecution in violation of N.C. State Bar Rule 3.8.

For the foregoing explanations above, Brian would stand a better chance at a bench trial for his legal innocence or would stand a good chance of getting his case dismissed on not being obscene but his pro se motions are ignored and his lawyer refuses or fails to even try filing a motion to dismiss based on Brian's legal innocence on the obscenity requirement under Virginia persuasive case laws. There is no way Brian can legally push for a bench trial because the Commonwealth



Attorney pushed for jury trial, knowing that Brian will not get a fair trial and that his federal conviction can be used against him and prejudice the jurors one way or another. Legal innocence does not matter in a jury trial when the jurors can be prejudiced by a wrongful federal conviction that was and is currently being challenged on actual innocence and frauds upon the court under case law of *Chambers v. Nasco, Inc.* and other case laws. Brian would have won had it been a bench trial. Because of that reason, Brian has no choice but to withdraw his appeal from the General District Court, and consider finding other means to challenge his state case by other legal means he could use. He may even have to consider filing a Writ of Habeas Corpus in federal court for his state conviction in General District Court. Brian is having to weigh his options to ensure that his legal innocence is recognized and won't be barred by discrimination and prejudice on its face.

Then another lawyer who said that Brian did have a chance at being found innocent of indecent exposure, turned his back on Brian and refused to take the case at all because he spoke with Lauren McGarry who made a big deal out of somebody else's investigative work and blog post that doesn't even have the information on that blog for months after Brian's family requested that it be removed from Laurie's blog post on JusticeForUSWGO.wordpress.com. So that one lawyer refused to take the case because Lauren McGarry complained to him (this private lawyer) about somebody else's blog post from June or July of 2019. So Brian cannot even get a good lawyer to fight for him. Brian is screwed over, every way ever since the jury trial was started by the Commonwealth Attorney. Brian has had to beg for a pardon in his federal case for his actual innocence but Trump is being attacked so much by lies and deceit, Donald John Trump doesn't even have the time to consider pardoning Brian David Hill of his wrongful federal conviction on the basis of recognizing his actual innocence. Brian isn't going to



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find a good lawyer that his family can pay for cheaply just so Brian can be found legally innocent and defeat his Supervised Release Violation in federal court over his legal innocence in this state case. One turned his back on Brian because of what one lawyer or two lawyers from the Martinsville Public Defender office had told him. Brian is screwed over in many ways and will never get a fair trial in this state case, EVER. Brian is having to consider asking for a non-local Virginia attorney away from the Bible belt and away from the Public Defender office, but then the cost will be unaffordable for a third party aka Brian's family to even pay to aid in Brian's winning this state case.

Brian's only chance to preserve his legal innocence is to withdraw his appeal in the Circuit Court, and just find another way to get a fair bench hearing to be found legally innocent of his state charge.

Brian has given a good series of explanations in this motion as to why he is withdrawing his appeal. He has other routes to prove his legal innocence and overturn his conviction in the General District Court. Brian doesn't to have to deal with any drama coming from the Martinsville Public Defender office over what one of Brian's friends had posted at JusticeForUSWGO.wordpress.com back in June or July 2019, but then removed those from the blog posting out of concerns from Brian's family that it would put a target on all of our backs. At this point, there is just no way any fair trial can happen in the City of Martinsville. Brian is requesting appeal be withdrawn and accepts the conviction in the General District Court, and will find other legal ways to overturn his wrongful conviction on December 21, 2018, in the Martinsville General District Court.

Also an argument suggested by Brian's family:

According to our US Constitution, Sixth Amendment - Rights of Accused in Criminal Prosecutions a defendant has a right to a speedy and public trial,

by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

It is now 21 or 22 days until Brian's jury trial. His attorney has not asked Brian who he would want to have as witnesses to represent him, has not tried to get a professional witness who understands and can explain to the jury how his autism caused him to leave the house and caused other things that night, and it is getting too close to time to prepare or arrange for these witnesses to appear. All cards are stacked against Brian and work for the prosecution which would explain why he wanted a jury trial, and Brian's court appointed attorney wanted a bench trial.

Brian and his family have contacted several local attorneys and found out from all that we live in a Bible belt so most jurors in this area will be offended by these photos. Taking photos of oneself in the nude is not against the law. These were taken in the dark when no one else was around, and the camera was in Brian's backpack at the time of arrest. Now these personal photos will be shown to many people without explaining that Brian has autism which is brain damage and similar to dementia and was under the influence of undetected carbon monoxide gas in his home for almost a year which caused Brian's health to worsen and caused a lot of physical damage to the ceiling above & walls around his fireplace from the gas hot water heater and gas boiler/furnace. The vent was blocked in the chimney. If Brian testifies, the prosecution then can bring up about a former charge, but Brian can't bring up that this charge is based on fraud upon the court and is being contested in court. With Brian's autism, he will most likely have a melt-down. This court appointed attorney wants Brian to testify and did not tell us what other attorneys have told us about this. This attorney has not discussed if he has obtained permission for Brian to have autism and type I insulin brittle diabetes supports in the court which is a federal law according to the Americans with Disabilities Act as well as instructions on how to question someone with autism in the court. He has not told Brian or his family what type of measure will be taken when they



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question someone with autism. Brian has now accepted the fact that he will lose and so it is time to withdraw his appeal.

Hill respectfully files this Motion with this honorable Court, this the 11th day of November, 2019.

Respectfully submitted,

Brian D. Hill

Signed

Signed

Brian D. Hill (Pro Se)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Phone #: (276) 790-3505

U.S.W.G.O.

Former U.S.W.G.O. Alternative News reporter

I stand with QANON/Donald-Trump – Drain the Swamp

I ask Qanon and Donald John Trump for Assistance (S.O.S.)

Make America Great Again

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Amazon: The Frame Up of Journalist Brian D. Hill

This pleading had been transmitted by facsimile to the Office of the Hon. Ashby Pritchett, Clerk's office at the Martinsville Circuit Court on November 11, 2019, at the address of 55 West Church Street, Martinsville, Virginia 24112 and at Fax: (276) 403-5232. It has also been transmitted by facsimile to the General District Court at the Fax: Fax: (276) 403-5114 since granting of this motion to withdraw appeal sends the case record back to the General District Court.

CERTIFICATE OF SERVICE

I hereby certify that on this the 11th day of November, 2019, a true copy of the foregoing Motion/Pleading was transmitted by facsimile to the office of the Commonwealth Attorney of Martinsville, at 55 West Church Street, Martinsville,



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Virginia 24112, counsel for Plaintiff of the Commonwealth of Virginia, Fax: 276-403-5478. Transmission ticket attached.

Brian D. Hill
Signed

Signed

Brian D. Hill (Pro Se)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Phone #: (276) 790-3505

U.S.W.G.O.

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